

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.9677 OF 2004

Late Lokshahir Abnnabhau Sathe
Shikshan Prasarak Mandal & Anr. ...Petitioners.

Vs.

The Education Officer (Secondary)
Zilla Parishad, Solapur & Anr. ...Respondents.

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Mr. S. G. Kudle for the Petitioner.
Mr. C. R. Sonawane, AGP for Respondent Nos.1 and 2.

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**CORAM : KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.**

April 25, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.) :

Rule, by consent of Counsel returnable forthwith.
Counsel appearing on behalf of the Respondents waive service.
By consent of Counsel and at the request of Counsel taken up for
hearing.

2. The Petitioners have, in these proceedings, sought the
issuance of a writ of Mandamus directing the Respondents to grant
a hundred percent grant-in-aid from the Academic Year 1996-97 to

the Secondary School conducted by First Petitioner, namely, the Late Annabhau Sathe Prashala, Pandharpur that is, with effect from the fourth Year of the commencement of the school. The Secondary School started functioning from Academic Year 1993-94 and it has been recognised by the Government of Maharashtra. The school is stated to be situated in a slum area at Pandharpur. A certificate has been issued on 18th November 1998 by the Chief Officer of the Municipal Council at Pandharpur to the effect that the School is situated in Anil Nagar Slum Area, Ward No.5. A communication was addressed by the School Education Department to the Director of Education to scrutinize the proposal for grant-in-aid and to submit a proposal to the Government. On 17th June 2004, in a representation addressed by the Petitioners to the State Government, the submission that was made was that though grant-in-aid has eventually been granted to the school from Academic Year 2000-01, in terms of a Government Resolution dated 10th February 1989, the school was entitled to full grant-in-aid from the year 1998.

3. The substratum of the case of the Petitioners, therefore, is founded on the Government Resolution dated 10th February 1989. The schedule to the Government Resolution inter alia lays down the criteria for evaluating schools falling in different categories for admissibility of grant-in-aid and ultimately it has been provided that a school which gets 70 marks out of 100 on the basis of the criteria enunciated would be eligible for getting grant-in-aid. The Government Resolution inter alia provides that schools which are situated in tribal areas would be eligible to full grant-in-aid from the 4th Year. In the schedule to the Government Resolution, schools situated in tribal areas, schools in areas declared to be slums by the State Government and night schools have been classified together for the purpose of evaluation. The contention of the Petitioner is that in the circumstances, a school situated in an area declared to be slum by the State Government should be entitled to the same benefit of full grant-in-aid as is allowable to schools which are situated in tribal areas.

4. In the affidavit in reply filed by the Deputy Education

Officer (Secondary), Solapur, it has been submitted that Schedule-A to the Government Resolution dated 10th February 1989 is a measure of evaluating schools which apply for grant-in-aid. Hence, it has been submitted that Part C of the schedule relates to the evaluation of the schools situated in tribal areas, slum areas and night schools. According to the deponent, the Government Resolution does not provide *ipso facto* that a school in a slum area should receive a hundred percent grant from the Fourth Year. In other words, the benefit of full grant-in-aid commencing from the Fourth Year is, according to the Zilla Parishad, confined to schools situated in tribal areas.

5. In our view, the issue which is raised in the Petition is one of policy which would have an important bearing on the efforts which are being made by the State Government to encourage access to education to a large segment of the population from the underprivileged strata which resides in areas which are declared to be slums. The benefits of development must percolate to those on the margins of existence. Bringing this strata of Society into the

mainstream by providing access to education would fulfill the vision contained in the Directive Principles of State Policy. However, we are also conscious of the fact that this is an area where the State will have to weigh its budgetary and other priorities. In our view, therefore, it would not be appropriate to dispose of this petition on the basis of the interpretation placed on the Government Resolution by the Deputy Education Officer (Secondary) of the Zilla Parishad. Having regard to the wider ramifications of the issue raised in these proceedings, it would in our view, be necessary if the issue that is raised by the Petitioner is considered by the Secretary to the Government of Maharashtra in the School Education Department. It is ultimately for the State Government to take a considered decision in the matter, having regard to all relevant circumstances, including considerations relating to the implementation of the education policy of the State and budgetary allocations.

6. We, therefore, dispose of this petition by permitting the Petitioners to file an additional representation before the

Secretary, School Education Department of the State Government in support of its claim. Should the representation be filed within four weeks, the Secretary of the School Education Department would, upon receipt of the representation deal with it with reasonable despatch and communicate a final decision thereon to the Petitioners in accordance with law. The petition is accordingly disposed of. There shall be no order as to costs.

CHIEF JUSTICE

Dr.D. Y. Chandrachud, J.